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TAGS: [PHUM](#) [PGOV](#) [PROP](#) [SOCI](#) [CH](#)  
SUBJECT: HIGH-PROFILE NGO CLOSED, PRE-60TH ANNIVERSARY  
CRACKDOWN UNDERWAY, CONTACTS SAY

REF: BEIJING 303

Classified By: Political Internal Unit Chief  
Graham Mayer. Reasons 1.4 (b) and (d).

#### Summary

11. (C) On July 17 the Beijing Civil Affairs Bureau raided the offices of the Open Constitution Initiative (aka "Gongmeng"), an NGO promoting democracy and rule-of-law, and declared the group an "illegal organization." Days earlier, Beijing tax officials had slapped OCI with a large fine for alleged tax evasion. OCI supporters viewed the closure as politically motivated, the result of OCI's political activism, the connection of several OCI activists to Charter 08, its acceptance of foreign funding and the Communist Party's determination to maintain stability as the 60th anniversary of the founding of the PRC approaches. An OCI member expressed concern that the NGO's leaders may face criminal charges, though other contacts said the Communist Party was unlikely to go beyond shutting the group down. Not all NGOs are feeling political pressure. The founder of an NGO that provides legal services to migrant workers told us the government remained supportive, mainly because his group was careful to steer clear of politically sensitive issues. Contacts disagreed on whether the USG should raise the OCI closure with Chinese officials: some believed the Party would back off in the face of international pressure while others argued that USG advocacy would make things worse for OCI. Post has already expressed concern to the Chinese government about the OCI crackdown at the working level. End Summary.

#### Background on OCI

12. (SBU) The Open Constitution Initiative ("Gongmeng" in Chinese) was founded in 2003 by a group of Beijing University law students. Unable to obtain legal status as an NGO, OCI registered as a company in 2005. OCI essentially functions as a public advocacy law firm, providing legal assistance in precedent-setting cases. OCI lawyers assisted in the defense of legal activist Chen Guangcheng, who was jailed in 2006 after revealing family planning abuses in Shandong Province. More recently, OCI members provided legal advice for parents of children harmed in the 2008 milk tainting scandal. OCI also conducts research on social and public policy issues. In May, the organization released a report on the root causes of the March 2008 unrest in Tibet, which included pointed criticism of China's policies in the region. OCI received an

Embassy small grant in 2004.

#### OCI Shuttered as "Illegal Organization"

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13. (SBU) On July 14, according to documents on the OCI website (www.gongmeng.cn), the Beijing Taxation Bureau issued a notice to OCI that it had failed to pay RMB 60,995 (USD 9,000) in transaction, urban planning, and stamp taxes and RMB 187,424 (USD 27,500) in income tax on donations made by Yale Law School. Tax authorities fined OCI an amount equal to five times the tax owed, the maximum fine allowed by law. In total, tax officials ordered OCI to pay RMB 1.4 million (USD 206,000) in back taxes and fines. In an eight-page rebuttal printed on the OCI website, OCI founder Xu Zhiyong argued that the group did not purposely evade tax and donations should only be treated as income after deducting OCI project operating costs. On July 17, officials from the Beijing Civil Affairs Bureau entered OCI's Beijing office and confiscated computers, printers, fax machines, office furniture, files, and publications. The officials issued a notice that the "OCI Legal Research Center," which is a research organization subsidiary to the OCI corporation, was an "illegal organization." In a second rebuttal published on the website, Xu argued that the OCI's structure is legal and that its business license does not preclude it from engaging in research and public interest activities.

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14. (SBU) Note: Though theoretically China allows NGOs to obtain legal status, most "real" NGOs (i.e. organizations that are not connected to Party or government agencies) find it impossible to register and thus can only obtain legal status as companies. Such "company NGOs" generally must pay transaction tax ("yingye shui", which amounts to 5 percent of revenue/donations) but report no profits and thus do not pay corporate income tax. After establishing a corporate entity, these NGOs can then establish subsidiary research institutes funded by the company (somewhat analogous to research centers run by major securities companies or banks). In OCI's case, it is the subsidiary research department, rather than the company itself, that Civil Affairs authorities have declared an "illegal organization." End Note.

#### OCI Made Tax Mistakes, But Closure is Political

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15. (C) Xu Zhiyong (protect), OCI director and close Embassy contact, told PolOff July 22 that, in the current environment, he would be unable to meet with EmbOffs for several weeks. Guo Yushan (protect), another OCI founder, told PolOff July 22 that he viewed the OCI closure as the first step in a crackdown against other politically sensitive NGOs that, like OCI, are registered as companies. Guo expressed concern that his own NGO, the Transition Institute (TI), a policy think tank with an orientation similar to OCI, will also be shut down. Guo told PolOff that both OCI and TI use the same accounting firm and the accountant did, in fact, make mistakes in handling the books of the two "companies." The accountant's mistakes made OCI and TI vulnerable to charges of tax irregularities. Beijing tax authorities, Guo said, began investigating both organizations in May. Guo, however, said the alleged tax violations were minor and did not impact the amount of tax actually owed. The crackdown by the Beijing Civil Affairs

Bureau, he said, indicated the Chinese Communist Party had made a political decision to close OCI and possibly other NGOs. Guo believed the Party had decided to shut OCI first for a combination of reasons including OCI's legal activism in sensitive human rights cases, the fact that many OCI members (including Guo, but not Xu Zhiyong) had signed Charter 08 (see reftel), and the CCP's general nervousness over the upcoming 60th anniversary of the founding of the PRC. Guo said that Aizhi ([www.aizhi.org](http://www.aizhi.org)), an AIDS NGO registered as a commercial enterprise, was also under political pressure.

#### Concern over Possible Criminal Charges

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16. (C) Guo said OCI had recruited about 100 "members" from across China and had even issued them identification cards. The membership list was among the items seized by Beijing Civil Affairs officials July 17, according to Guo, who said the list might be used for pursuing criminal charges of "inciting subversion of state power" against Xu and other OCI leaders. Guo added that OCI would also be vulnerable to illegal publication charges since the books seized by the Civil Affairs Bureau lacked the required publication numbers (kan hao) and were thus technically illegal.

#### Little Media Attention to OCI Closure

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17. (SBU) China's domestic media have given scant attention to the story of OCI's recent troubles. The July 23 edition of Southern Weekend (Nanfang Zhoumo) includes a story about the OCI crackdown. The Nongmin Ribao (Farmers Daily) website also ran a column by prominent Chinese Academy of Social Sciences rural development expert Yu Jianrong that criticizes the closure of OCI. OCI's website ([www.gongmeng.cn](http://www.gongmeng.cn)), including documents related to the July 17 raid, was still accessible to Chinese Internet users July 23. However, several blog entries about OCI on websites such as sina.com and tianya appeared to have been removed by censors.

#### Stability Concerns Surrounding 60th Anniversary

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18. (C) Tsinghua University communications professor Zhou Qing'an (protect), told PolOff July 24 that it was "very clear" authorities had clamped down on OCI because of its political activism. Zhou believed the crackdown on OCI reflected the Party's concerns about maintaining social stability in the period leading up to the October 1 celebrations of the 60th anniversary of the founding of the PRC. Zhou speculated that OCI might be allowed to return as a new company after the sensitive 60th anniversary passed. Unlike Guo, Zhou felt there was little chance authorities would try to pursue criminal cases against Xu Zhiyong and other OCI figures.

#### Security Services Act Before NGO Liberalization

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19. (C) Beijing University School of International Studies Assistant Professor Yu Wanli (protect) told PolOff July 23 that a significant revision of the NGO law that will liberalize the registration requirements for NGOs was in the works and could come into force "very soon." With this in mind, security services were moving against sensitive NGOs, "dealing

with them while they still can." Yu said that security services were most concerned about NGOs that involve lawyers and journalists and those that receive international funds. OCI, he said, was in "the worst situation of all": lawyers who are connected with Charter 08 who had started a "politically dangerous" and unregistered NGO using foreign money. Asked whether authorities might allow OCI to reopen, Yu responded "no way, this organization is completely finished." Most of the individual lawyers, Yu predicted, would have no problems but the organization's leaders could face harsher punishment.

#### Non-Threatening NGOs Get a Pass on Taxes

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¶10. (C) Wei Wei (protect), the founder of Little Bird, an NGO that provides legal counseling to migrant workers, told PolOff July 24 that he did not believe that authorities intended to crack down on NGOs in general. Wei Wei, who was unfamiliar with the OCI shutdown until briefed by PolOff, said officials continued to tolerate NGOs that are not perceived as a political threat, even to the point of ignoring obvious tax violations. Like OCI, Little Bird is registered as a commercial company. Wei Wei told PolOff that Beijing officials realize that his NGO, which has been operating for ten years, provides essential services to migrants and helps mediate labor disputes that might otherwise escalate into destabilizing incidents. As a result, Beijing authorities have told Wei Wei that they will not audit his organizations' tax records. Though Little Bird receives donations from several American and European foundations (in addition to foreign embassies) and, as a commercial company, is obligated to pay taxes on this revenue, each year the group reports zero income and thus enjoys de-facto tax-free status. Wei Wei speculated that the tax issues were thus just an excuse and that OCI's real trouble came from its work in politically sensitive areas.

#### USG Role

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¶11. (C) Post registered USG concern at the working level with officials in the MFA's Human Rights Division. Contacts had mixed views on whether the USG should elevate the OCI closure in official channels. Yu Wanli, of Beijing University, said that international pressure on OCI's behalf will actually reinforce the government's decision to crack down since security services targeted OCI because of its foreign contacts and financial support. Tsinghua University's Zhou Qing'an had a similar assessment, saying that direct USG intervention will only confirm authorities' suspicions about OCI. Zhou suggested that OCI donor Yale University could send a letter to Chinese leaders via the U.S. Embassy. OCI member Guo Yushan, however, had an opposite view, saying international pressure was very important.

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Authorities had closed OCI, Guo said, and were now waiting to gauge the domestic and international reaction. A strong show of concern by the United States and other countries may help, if not to save OCI, then to prevent further crackdowns on the Transition Institute and similar NGOs.  
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